

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

92-09-1001 MMC

UNITED STATES OF AMERICA,

V.

[Signature]

[Signature]

DAVID CHAN, and
KENT WU,

E-filing

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 1349 - Conspiracy to Commit Bank Fraud;
18 U.S.C. § 1344 - Bank Fraud;
18 U.S.C. § 1029(a)(2) & 2 - Fraudulent Use of Unauthorized Access Devices and
Aiding and Abetting;
18 U.S.C. § 982(a)(2)(A) - Criminal Forfeiture.

A true bill.

[Signature]
Foreman

Filed in open court this *8th* day of

December 2009.

[Signature] KAREN L. HCM

JOSEPH C. SPERO Clerk
UNITED STATES MAGISTRATE JUDGE

Bail, \$

*no present on Udu
no bail arrest warrant
on Chan*

FILED

DEC 8 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
[Signature]

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☐ INDICTMENT
☒ SUPERSEDING
OFFENSE CHARGED
 18 U.S.C. 1349 - Conspiracy to Commit Bank Fraud
 (Count One)
 18 U.S.C. 1344 - Bank Fraud
 (Counts Six - Eight)

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: See Attached Penalty Sheet

E-filing

Name of District Court, and/or Judge/Magistrate Location

 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION
DEFENDANT - U.S.

DAVID CHAN

 DISTRICT COURT NUMBER
 CR 09-1001 MMC

 DEC 8 2009
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

United States Secret Service

☐ person is awaiting trial in another Federal or State Court,
 give name of court

☐ this person/proceeding is transferred from another district
 per (circle one) FRCp 20, 21, or 40. Show District

☐ this is a reprosecution of
 charges previously dismissed
 which were dismissed on motion
 of.

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a
 pending case involving this same
 defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding this
 defendant were recorded under

Name and Office of Person

Furnishing Information on this form JOSEPH P. RUSSONIELLO
☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

David J. Ward, Kyle Waldinger**DEFENDANT****IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☐ If not detained give date any prior summons was served on above charges
- 2) ☒ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes
 been filed? ☐ No

 If "Yes"
 give date
 filed
DATE OF
ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT
Bail Amount: No Bail

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 * Where defendant previously apprehended on complaint, no new summons or
 warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

PENALTY SHEET ATTACHMENT

United States v. David Chan

Superseding Indictment

Counts and Maximum Penalties:

Counts 1: 18 U.S.C. § 1349 - Conspiracy to Commit Bank Fraud (Class C Felony)

- 30 years imprisonment; \$1,000,000 fine; 3 years supervised release; \$100 special assessment per count, restitution and forfeiture.

Counts 6-8: 18 U.S.C. § 1344 - Bank Fraud (Class C Felony)

- 30 years imprisonment; \$1,000,000 fine; 3 years supervised release; \$100 special assessment per count, restitution and forfeiture.

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☐ INDICTMENT
☒ SUPERSEDING
OFFENSE CHARGED
 18 U.S.C. 1349 - Conspiracy to Commit Bank Fraud
 (Count One)
 18 U.S.C. 1344 - Bank Fraud
 (Counts Two - Five, Nine - Eleven)
 18 U.S.C. 1029(a)(2) & 2 - Fraudulent Use of an Unauthorized
 Access Device

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: See Attached Penalty Sheet

E-filing

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

KENT WU

DISTRICT COURT NUMBER
CR 09-1001 MMC**FILED**
DEC 8 2009RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

United States Secret Service

☐ person is awaiting trial in another Federal or State Court,
give name of court☐ this person/proceeding is transferred from another district
per (circle one) FRCrp 20, 21, or 40. Show District☐ this is a reprosecution of
charges previously dismissed
which were dismissed on motion
of:☐ U.S. ATTORNEY ☐ DEFENSESHOW
DOCKET NO.☐ this prosecution relates to a
pending case involving this same
defendantMAGISTRATE
CASE NO.☐ prior proceedings or appearance(s)
before U.S. Magistrate regarding this
defendant were recorded under

Name and Office of Person

Furnishing Information on this form JOSEPH P. RUSSONIELLO

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

David J. Ward, Kyle Waldinger

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☐ If not detained give date any prior
summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☒ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer
been filed? ☐ Yes
☐ NoIf "Yes"
give date
filedDATE OF
ARRESTMonth/Day/Year
11/4/09

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**☐ SUMMONS ☒ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or
warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

PENALTY SHEET ATTACHMENT

United States v. Kent Wu

Superseding Indictment

Counts and Maximum Penalties:

Counts 1: 18 U.S.C. § 1349 - Conspiracy to Commit Bank Fraud (Class C Felony)

- 30 years imprisonment; \$1,000,000 fine; 3 years supervised release; \$100 special assessment per count, restitution and forfeiture.

Counts 2-5, 9-11: 18 U.S.C. § 1344 - Bank Fraud (Class C Felony)

- 30 years imprisonment; \$1,000,000 fine; 3 years supervised release; \$100 special assessment per count, restitution and forfeiture.

Count 12: 18 USC 1029(a)(2) & 2: - Fraudulent Use of Unauthorized Access Devices, and Aiding and Abetting (Class C Felony)

- 10 years imprisonment; \$250,000 fine; 3 years supervised release; \$100 special assessment per count, restitution and forfeiture.

FILED

DEC 8 2009

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 09-1001 MMC
Plaintiff,)	
v.)	VIOLATIONS: 18 U.S.C. § 1349 —
)	Conspiracy to Commit Bank Fraud; 18
DAVID CHAN and)	U.S.C. § 1344 — Bank Fraud; 18 U.S.C.
KENT WU,)	§ 1029(a)(2) & 2 — Fraudulent Use of
Defendants.)	Unauthorized Access Devices and Aiding and
)	Abetting; 18 U.S.C. § 982(a)(2)(A) —
)	Criminal Forfeiture
)	SAN FRANCISCO VENUE

SUPERSEDING INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Superseding Indictment:

1. The defendants David Chan and Kent Wu were individuals who resided in the Northern District of California.

2. Wells Fargo Bank ("Wells Fargo") was a financial institution, as that term is defined in Title 18, United States Code, Section 20, the deposits of which were insured by the Federal Deposit Insurance Corporation ("FDIC").

3. Washington Mutual ("WaMu") was a financial institution, as that term is defined in Title 18, United States Code, Section 20, the deposits of which were insured by the FDIC. In approximately September 2008, WaMu was purchased by J.P. Morgan Chase Bank, the deposits

SUPERSEDING INDICTMENT
CR 09-1001 MMC

1 of which were and are also insured by the FDIC.

2 4. Discover Bank ("Discover") was a financial institution, as that term is defined in
3 Title 18, United States Code, Section 20, the deposits of which were insured by the FDIC.

4 5. Citibank ("Citibank") was a financial institution, as that term is defined in Title
5 18, United States Code, Section 20, the deposits of which were insured by the FDIC.

6 6. "Convenience checks" were checks issued to credit card account holders by the
7 issuing bank of the credit card. In general, convenience checks were a special type of check
8 drawn on an individual's credit card account that could be used to make purchases, make
9 payments, or transfer balances from other credit card accounts. Issuing banks often provided
10 cardholders with convenience checks upon initial issuance of a credit card, as well as in
11 conjunction with monthly statements, and at other times. When an individual used a
12 convenience check to make purchases or payments, such use was considered a cash advance by
13 the issuing bank, upon which interest began to accrue immediately. Accordingly, when an
14 individual deposited a convenience check into an account at a financial institution, the financial
15 institution receiving such a deposit commonly treated the deposit as cash, and did not place a
16 waiting time on the availability of the funds.

17 7. When the issuing bank of a convenience check, or the issuing bank of a bank
18 check, was presented with such a check that (a) was related to a fraudulent credit card or bank
19 account, (b) had been stolen, (c) was related to an account that had been closed, or (d) was
20 otherwise invalid, the issuing bank commonly refused to make payment to the entity (usually a
21 financial institution such as Wells Fargo, WaMu, or Citibank) that had presented the check
22 (hereafter "presenting bank").

23 8. On or about June 3, 2005, an unknown individual submitted an application to
24 open a Wells Fargo checking account in the name of **Chong Li**, numbered ending 8834
25 (hereinafter "Chong Li 8834 Account"). On the application, the individual provided Social
26 Security number xxx-xx-6995 and California Driver's License number xxxx0536. Neither this
27 Social Security number nor this California Driver's License number are assigned to anyone
28 named Chong Li. The individual provided a residence address on the application of 1932 Irving

1 Street, #35, San Francisco, CA. California Driver's License number xxxx0536 is assigned to a
2 "K.M." K.M. resides in Huntington Beach, CA, not at 1932 Irving Street, San Francisco, CA.
3 An ATM card numbered ending 1212 was issued to the Chong Li 8834 account.

4 9. On or about June 13, 2006, an unknown individual opened a second Wells Fargo
5 checking account in the name of **Chong Li**, this one numbered ending 1477 (hereinafter "Chong
6 Li 1477 Account"). On the application, the individual provided Social Security number xxx-xx-
7 2381, California Driver's License number xxxx1334, and an address of 298 4th Street, Apt. 433,
8 San Francisco, CA. California Driver's License number xxxx1334 is not of record in the State of
9 California, and Social Security number xxx-xx-2381 is not assigned to anyone named Chong Li.
10 An ATM card numbered ending 5000 was issued to the Chong Li 1477 Account.

11 10. On or about February 16, 2007, an unknown individual opened a Wells Fargo
12 checking account in the name of **Chiu Li**, numbered ending 7110 (hereinafter "Chiu Li 7110
13 Account). On the application, the individual provided a Social Security number xxx-xx-4455,
14 California Driver's License number xxxx1732, and an address of 895 B St., #180, Hayward, CA.
15 California Driver's License number xxxx1732 is not assigned to anyone named Chiu Li, nor is
16 Social Security number xxx-xx-2381. An ATM card numbered ending 0700 was issued to the
17 Chiu Li account.

18 11. On or about May 3, 2007, an unknown individual opened a WaMu checking
19 account in the name of **Wah S. Lam**, numbered ending 6808 (hereinafter "Wah Lam 6808
20 Account"). The account address was 1932 Irving Street, Apt. 16, San Francisco, CA. In opening
21 this account, the individual provided California Driver's License number xxxx2117 and Social
22 Security Number xxx-xx-6933. Social Security Number xxx-xx-6933 is not assigned to anyone
23 named Wah S. Lam. California Driver's License number xxxx2117 is assigned to a "U.J." U.J.
24 resides in San Diego, CA, not at 1932 Irving Street, Apt. 16, San Francisco, CA.

25 12. On or about June 5, 2009, an unknown individual opened a Citibank checking
26 account in the name of **Chiu Li**, numbered ending 9193 (hereinafter "Chiu Li 9193 Account").
27 The account address was 895 B Street. #180, Hayward, CA. In opening this account, the
28 individual provided a Social Security number xxx-xx-4455 and a California Driver's License

number xxxx1732, neither of which are assigned to anyone named Chiu Li. An ATM card numbered ending 0168 was issued to the Citibank Chiu Li 9193 account.

COUNT ONE: 18 U.S.C. § 1349 — Conspiracy to Commit Bank Fraud

13. The factual allegations in paragraphs 1 through 12 are re-alleged and incorporated herein as if set forth in full.

14. Beginning on a date unknown, but by no later than on or about May 14, 2009, and continuing to at least on or about November 4, 2009, in the Northern District of California, and elsewhere, the defendants,

DAVID CHAN and
KENT WU,

did knowingly and willfully conspire and agree with each other, and with other persons unknown to the Grand Jury, to commit the crime of bank fraud, in violation of Title 18, United States Code, Section 1344.

MANNER AND MEANS OF THE CONSPIRACY

15. The purpose of this conspiracy to defraud was to obtain money from Wells Fargo, WaMu, Citibank, Discover, and other FDIC-insured financial institutions so that the defendants and their co-conspirators could enrich themselves.

16. Among the means and methods by which the defendants and others carried out this conspiracy were the following:

- a. The defendants and other individuals made misrepresentations of material facts to Wells Fargo, WaMu, Discover, Citibank and other FDIC-insured financial institutions by opening bank accounts using the names and identities of other individuals, or using fictitious identities, or providing other material false information.
- b. The defendants and other individuals then deposited bank checks or credit card convenience checks, from other bank accounts, into the bank accounts opened with material false information, knowing that such bank and convenience checks would be returned unpaid or were otherwise fraudulent. The defendants and other

individuals thereafter withdrew, or attempted to withdraw, funds from those bank accounts before the deposited checks were returned unpaid by making ATM cash withdrawals or point-of-sale purchases using the ATM cards assigned to the bank accounts.

- c. It was further part of the conspiracy that, thereafter, at times the defendants and other individuals deposited additional fraudulent checks into the bank accounts in order to "cover" the fraudulent checks that previously had been deposited, knowing that such checks were fraudulent and would likely be returned unpaid, and did so for the purpose of perpetuating the conspiracy to defraud.

OVERT ACTS COMMITTED IN FURTHERANCE OF THE CONSPIRACY

17. On or about the dates set forth below, in furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed in the Northern District of California, and elsewhere:

The Chong Li 8834 Account

- a. As alleged in paragraph 8, on or about June 3, 2005, an unknown individual opened a checking account at Wells Fargo in the name of Chong Li (the "Chong Li 8834 Account") by providing material false information.

Selected Transactions With Respect to the Chong Li 8834 Account

Each of the ATM transactions set forth in sub-paragraphs b through e below were conducted using the Chong Li 8834 Account ATM Card:

- b. On May 13, 2009, the defendant Kent Wu deposited a bank check from the Wah Lam 6808 Account, in the amount \$1,950.90, into the Chong Li 8834 Account at an ATM located on West Portal Avenue, San Francisco, CA. On May 19, 2009, this check was returned unpaid.
- c. On May 13, 2009, the defendant Kent Wu deposited a bank check from the Wah Lam 6808 Account, in the amount of \$1,980.20, into the Chong Li 8834 Account at an ATM located at 145 West Portal Avenue, San Francisco, CA. Wells Fargo refused to credit the funds to the Chong Li 8834 account.

d. On May 14, 2009, the defendant Kent Wu made a \$500 withdrawal from the Chong Li 8834 Account at an ATM located on West Portal Avenue, San Francisco, CA.

e. On May 14, 2009, the defendant Kent Wu deposited a bank check from the Wah Lam 6808 Account, in the amount of \$2,950.80, into the Chong Li 8834 Account at an ATM located at 4648 Mission Street, San Francisco, CA. On May 19, 2009, this check was returned unpaid.

The Chong Li 1477 Account

f. As alleged in paragraph 9, on or about June 13, 2006, an unknown individual opened a checking account at Wells Fargo under the name Chong Li (the "Chong Li 1477 Account") by providing material false information.

Selected Transactions With Respect to the Chong Li 1477 Account

Each of the ATM transactions set forth in sub-paragraphs g through i below were conducted using the ATM Card assigned to the Chong Li 1477 Account:

g. On May 14, 2009, the defendant David Chan deposited a bank check from the Wah Lam 6808 Account, in the amount of \$2,934.21, into the Chong Li 1477 Account, at an ATM located at 2300 Irving Street, San Francisco, CA. On May 19, 2009, this check was returned unpaid.

h. On May 16, 2009, the defendant David Chan deposited a bank check from the Wah Lam 6808 Account, in the amount of \$2,915.34, into the Chong Li 1477 Account, at an ATM located at 2300 Irving Street, San Francisco, CA. On May 21, 2009, this check was returned unpaid.

i. On May 15, 2009, the defendant David Chan made a \$500 withdrawal from the Chong Li 1477 Account at an ATM located at 2300 Irving Street, San Francisco, CA.

The Chiu Li 7110 Account

j. As alleged in paragraph 10, on or about February 16, 2007, an unknown individual opened a checking account at Wells Fargo in the name of Chiu Li (the

1 “Chiu Li 7110 Account”) by providing material false information.

2 Selected Transactions With Respect to the Chiu Li 7110 Account

3 Each of the ATM transactions set forth in sub-paragraphs k through m below were conducted
4 using the Chiu Li 7110 Account ATM Card:

5 k. On July 20, 2009, the defendant Kent Wu deposited a convenience check issued
6 for a credit card in the name of Ren Huang, account number ending 2805 (“the
7 Ren Huang 2805 Discover Account”), in the amount \$3,995.80, into the Chiu Li
8 7110 Account at an ATM located at 2300 Irving Street, San Francisco, CA. On
9 July 23, 2009, that convenience check was returned unpaid.

10 l. On July 21, 2009, the defendant Kent Wu deposited a convenience check from the
11 Ren Huang 2805 Discover Account, in the amount of \$3,980.63, into the Chiu Li
12 7110 Account at an ATM located at 2300 Irving Street, San Francisco, CA. On
13 July 22, 2009 that convenience check was returned unpaid.

14 m. On July 21, 2009, the defendant Kent Wu deposited a convenience check from the
15 Ren Huang 2805 Discover Account, in the amount of \$3,990.65, into the Chiu Li
16 7110 Account at an ATM located at 145 West Portal Avenue, San Francisco, CA.
17 On July 24, 2009, that convenience check was returned unpaid.

18 Other Accounts

19 n. Continuing until at least November 4, 2009, unknown conspirators opened or
20 caused to be opened numerous bank accounts at Wells Fargo and other FDIC-
21 insured financial institutions. In doing so, the conspirators used fictitious
22 identities, or used the identities of other individuals, and provided other material
23 false information. These bank accounts included, but were not limited to, the
24 following:

25 i. Wells Fargo account in the name of “Son Ye Lam” numbered ending 8021
26 (the “Son Lam 8021 Account”) opened on August 16, 2006.

27 ii. Wells Fargo account in the name of “Hui Wu” numbered ending 2844 (the
28 “Hui Wu 2844 Account”) opened on August 31, 2006.

iii. Wells Fargo account in the name of "Kam S. Fong" numbered ending 4049 (the "Kam Fong 4049 Account") opened on October 6, 2006.

o. Beginning no later than 2009, the defendants and conspirators deposited fraudulent convenience checks and fraudulent bank checks into these bank accounts and, thereafter, withdrew funds purportedly related to those checks before the checks were returned unpaid or the bank detected the fraudulent scheme. These deposits included, but were not limited to, the following:

i. On April 18, 2009, the defendant Kent Wu deposited a check for \$2,950.80 into the Son Lam 8021 Account at an ATM located at 2300 Irving Street, San Francisco, CA. On April 22, 2009, that check was returned unpaid.

ii. On August 11, 2009, the defendant Kent Wu made a \$500 ATM withdrawal from the Hui Wu 2844 Account at an ATM located at 2300 Irving Street, San Francisco, CA.

iii. On August 18, 2009, the defendant David Chan deposited a check in the amount of \$2,743.77 into the Kam Fong 4049 account at an ATM located on West Portal Avenue, San Francisco, CA. On August 20, 2009, that check was returned unpaid.

All in violation of Title 18, United States Code, Section 1349.

COUNTS TWO THROUGH ELEVEN: 18 U.S.C. § 1344 — Bank Fraud

18. The factual allegations in paragraphs 1 through 12 and paragraph 17 are re-alleged and incorporated herein as if set forth in full.

19. Beginning on a date unknown, but by no later than April 18, 2009, and continuing to at least on or about November 4, 2009, in the Northern District of California, and elsewhere, the defendants,

DAVID CHAN and
KENT WU,

did knowingly devise and execute a scheme and artifice to defraud Wells Fargo, WaMu, and

1 other FDIC-insured financial institutions as to a material matter, and to obtain moneys, funds,
2 credits, assets, and other property owned by and under the custody and control of Wells Fargo,
3 WaMu, and other FDIC-insured financial institutions by means of material false and fraudulent
4 pretenses and representations.

5 THE SCHEME

6 20. It was part of the scheme and artifice that the defendants and other individuals
7 made misrepresentations of material facts to Wells Fargo, WaMu, Citibank, Discover, and other
8 FDIC-insured financial institutions by opening bank accounts using the names and identities of
9 other individuals, using fictitious identities, or providing other material false information.

10 21. It was part of the scheme and artifice that the defendants and other individuals
11 maintained at least some of the bank accounts in good standing for a period of time, in some
12 cases several years.

13 22. It was part of the scheme and artifice that the defendants and other individuals
14 deposited checks into the bank accounts, knowing that such checks were fraudulent. The
15 defendants and other individuals thereafter withdrew, or attempted to withdraw, funds
16 purportedly related to those checks from the bank accounts.

17 23. It was part of the scheme and artifice that, thereafter, the defendants and co-
18 conspirators deposited additional checks into the bank accounts in order to "cover" the fraudulent
19 checks that previously had been deposited, knowing that such checks were fraudulent and would
20 likely be returned for insufficient funds, and did so for the purpose of perpetuating the scheme to
21 defraud.

22 24. It was part of the scheme and artifice that the defendants and other individuals
23 used the ATM cards from the Chong Li 8834, the Chong Li 1477, and the Chiu Li 7110
24 Accounts to deposit fraudulent bank checks into the Chong Li 8834 Account, the Chong Li 1477
25 Account, and the Chiu Li 7110 Account. By so doing, the defendants made material
26 misrepresentations to Wells Fargo that they were authorized to deposit and use the checks,
27 knowing full well that the checks were related to fraudulent bank or credit card accounts, were
28 stolen, or were otherwise invalid.

25. It was part of the scheme and artifice that, after the defendants deposited the fraudulent checks into the Chong Li 8834, Chong Li 1477 and Chiu Li 7110 Accounts, they used the ATM cards from those accounts to withdraw funds from the Chong Li 8834, the Chong Li 1477, and the Chiu Li 7110 Accounts — both before and after the fraudulent checks were returned to Wells Fargo, the presenting bank, unpaid — knowing that the fraudulent checks would in fact be returned unpaid.

EXECUTION OF THE SCHEME

26. On or about the dates set forth in the separate counts below, in the Northern District of California, and elsewhere, for the purpose of executing the scheme and artifice set forth above, and attempting to do so, the defendant identified below conducted the following financial transactions with respect to the Chong Li 8834, the Chong Li 1477, and the Chiu Li 7110 Accounts, among other financial transactions:

Count	Date	Defendant	Location	Financial Transaction
2	5/13/09	Kent Wu	West Portal Ave. San Francisco, CA	ATM deposit of check in the amount of \$1,950.90
3	5/13/09	Kent Wu	145 West Portal Ave. San Francisco, CA	ATM deposit of check in the amount of \$1,980.20
4	5/14/09	Kent Wu	West Portal Ave. San Francisco, CA	ATM withdrawal of \$500
5	5/14/09	Kent Wu	4648 Mission St. San Francisco, CA	ATM deposit of check in the amount of \$2,950.80
6	5/14/09	David Chan	2300 Irving St. San Francisco, CA	ATM deposit of check in the amount of \$2,934.21
7	5/16/09	David Chan	2300 Irving St. San Francisco, CA	ATM deposit of check in the amount of \$2,915.34
8	5/15/09	David Chan	2300 Irving St. San Francisco, CA	ATM withdrawal of \$500
9	7/20/09	Kent Wu	2300 Irving St. San Francisco, CA	ATM deposit of convenience check in the amount of \$3,995.80
10	7/21/09	Kent Wu	2300 Irving St. San Francisco, CA	ATM deposit of convenience check in the amount of \$3,980.63
11	7/21/09	Kent Wu	145 West Portal Ave. San Francisco, CA	ATM deposit of convenience check in the amount of \$3,990.65

All in violation of Title 18, United States Code, Section 1344.

COUNT TWELVE: 18 U.S.C. §§ 1029(a)(2) & 2 — Fraudulent Use of Unauthorized Access Devices and Aiding and Abetting

27. On or about and between November 5, 2008 and November 4, 2009, in the Northern District of California, the defendant,

KENT WU,

did knowingly and with intent to defraud use at least one unauthorized access device, including a Citibank ATM card numbered ending 0168 issued to Chiu Li, and by such conduct obtained things of value aggregating at least \$1,000, and, in so doing, affected interstate commerce, in violation of Title 18, United States Code, Sections 1029(a)(2) and 2.

FORFEITURE ALLEGATION: 18 U.S.C. § 982(a)(2)(A) — Bank Fraud Criminal Forfeiture

28. The preceding factual allegations of this Superseding Indictment are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C. § 982(a)(2)(A).

29. Upon conviction of one or more of the offenses alleged in Counts One through Eleven of this Superseding Indictment, the defendants,

DAVID CHAN, and
KENT WU,

shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(2)(A) all property constituting, and derived from, proceeds the defendants obtained, directly and indirectly, as the result of those violations.

30. If any of the aforementioned property, as a result of any act or omission of the defendants —

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

1 any and all interest the defendants have in other property shall be vested in the United States and
2 forfeited to the U.S. pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1).

3 All in violation of Title 18, United States Code, Section 982(a)(2)(A) and Rule 32.2 of the
4 Federal Rules of Criminal Procedure.

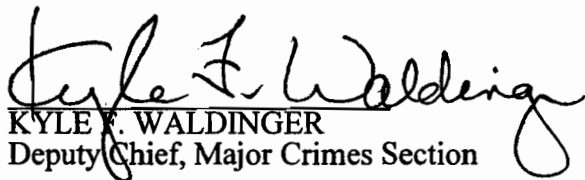
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6 DATED:

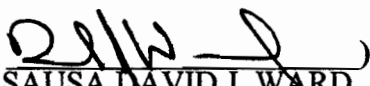
7 *December 8, 2009*

A TRUE BILL

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FOREPERSON

10 JOSEPH P. RUSSONIELLO
United States Attorney

11 
12 KYLE F. WALDINGER
13 Deputy Chief, Major Crimes Section

14 (Approved as to form: )

15 SAUSA DAVID J. WARD
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